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32 CFR Ch. I (7–1–12 Edition)

APPENDIX H TO PART 323—DLA EXEMPTION RULES

AUTHORITY: Privacy Act of 1974, Pub. L. 93–579, Stat. 1896 (5 U.S.C. 552a).

SOURCE: DLAR 5400.21, 51 FR 33595, Sept. 22, 1986, unless otherwise noted. Redesignated at 56 FR 57803, Nov. 14, 1991.

§ 323.1 Purpose and scope.

This part 323 implements the Privacy Act of 1974 (5 U.S.C. 552a) and DoD Directive and DoD Regulation 5400.11, Department of Defense Privacy Program (32 CFR part 286a). It applies to Headquarters, Defense Logistics Agency (HQ DLA) and all DLA field activities.

§ 323.2 Policy.

It is the policy of DLA to safeguard personal information contained in any system of records maintained by DLA activities and to make that information available to the individual to whom it pertains to the maximum extent practicable. DLA policy specifically requires that DLA activities:

(a) Collect, maintain, use, and disseminate personal information only when it is relevant and necessary to achieve a purpose required by statute or Executive Order.

(b) Collect personal information directly from the individuals to whom it pertains to the greatest extent practical.

(c) Inform individuals who are asked to supply personal information for inclusion in any system of records:

(1) The authority for the solicitation.

(2) Whether furnishing the information is mandatory or voluntary.

(3) The intended uses of the information.

(4) The routine disclosures of the information that may be made outside DoD.

(5) The effect on the individual of not providing all of any part of the requested information.

(d) Ensure that all records used in making determinations about individuals are accurate, relevant, timely, and complete.

(e) Make reasonable efforts to ensure that records containing personal information are accurate, relevant, timely, and complete for the purposes for which they are being maintained before making them available to any recipi-

ents outside DoD, other than a Federal agency, unless the disclosure is made under DLAR 5400.14, DLA Freedom of Information Act Program (32 CFR part 1285).

(f) Keep no record that describes how individuals exercise their rights guaranteed by the First Amendment of the U.S. Constitution, unless expressly authorized by statute or by the individual to whom the records pertain or is pertinent to and within the scope of an authorized law enforcement activity.

(g) Make reasonable efforts, when appropriate, to notify individuals whenever records pertaining to them are made available under compulsory legal process, if such process is a matter of public record.

(h) Establish safeguards to ensure the security of personal information and to protect this information from threats or hazards that might result in substantial harm, embarrassment, inconvenience, or unfairness to the individual.

(i) Establish rules of conduct for DoD personnel involved in the design, development, operation, or maintenance of any system of records and train them in these rules of conduct.

(j) Assist individuals in determining what records pertaining to them are being collected, maintained, used, or disseminated.

(k) Permit individual access to the information pertaining to them maintained in any system of records, and to correct or amend that information, unless an exemption for the system has been properly established for an important public purpose.

(l) Provide, on request, an accounting of all disclosures of the information pertaining to them except when disclosures are made:

(1) To DoD personnel in the course of their official duties.

(2) Under 32 CFR part 1285 (DLAR 5400.14).

(m) Advise individuals on their rights to appeal any refusal to grant access to or amend any record pertaining to

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them, and to file a statement of disagreement with the record in the event amendment is refused.

[DLAR 5400.21, 51 FR 33595, Sept. 22, 1986, unless otherwise noted. Redesignated at 56 FR 57803, Nov. 14, 1991, as amended at 66 FR 41781, Aug. 9, 2001]

§ 323.3 Definitions.

(a) *Access*. The review of a record or a copy of a record or parts thereof in a system of records by any individual.

(b) *Agency*. For the purpose of disclosing records subject to the Privacy Act among DoD Components, the Department of Defense is considered a single agency. For all other purposes including applications for access and amendment, denial of access or amendment, appeals from denials, and record-keeping as regards release to non-DoD agencies, DLA is considered an agency within the meaning of the Privacy Act.

(c) *Confidential source*. A person or organization who has furnished information to the Federal Government under an express promise that the person's or the organization's identity will be held in confidence or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

(d) *Disclosure*. The transfer of any personal information from a system of records by any means of communication to any person, private entity, or Government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

(e) *Individual*. A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

(f) *Individual access*. Access to information pertaining to the individual by the individual or his or her designated agent or legal guardian.

(g) *Maintain*. Includes maintain, collect, use, or disseminate.

(h) *Member of the public*. Any individual or party acting in a private capacity to include Federal employees or military personnel.

(i) *Official use*. Within the context of this part, this term is used when offi-

cials and employees of a DLA activity have a demonstrated need for the use of any record or the information contained therein in the performance of their official duties.

(j) *Personal information*. Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions or public life.

(k) *Privacy Act*. The Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(l) *Privacy Act request*. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records. The request must indicate that it is being made under the Privacy Act to be considered a Privacy Act request.

(m) *Record*. Any item, collection, or grouping of information about an individual that is maintained by DLA, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history, and that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(n) *Risk assessment*. An analysis considering information sensitivity, vulnerabilities, and the cost to a computer facility or word processing activity in safeguarding personal information processed or stored in the facility or activity.

(o) *Routine use*. The disclosure of a record outside DoD for a use that is compatible with the purpose for which the information was collected and maintained by DoD. The routine use must be included in the published system notice for the system of records involved.

(p) *Statistical record*. A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

(q) *System of Records*. A group of records under the control of a DLA activity from which information is retrieved by the individual's name or by some identifying number, symbol, or